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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,276	09/16/2003	Timothy Patrick Cannella	1622(SURA)	5287
30010	7590	04/02/2007		
AUZVILLE JACKSON, JR. 8652 RIO GRANDE ROAD RICHMOND, VA 23229			EXAMINER ALLEN, WILLIAM J	
			ART UNIT	PAPER NUMBER
			3625	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/02/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/663,276

Applicant(s)

CANNELLA ET AL.

Examiner

William J. Allen

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Prosecution History Summary

Claims 1-20 are pending and rejected as set forth below.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/18/2007 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendment necessitated the new grounds of rejection.

Additionally, regarding the rejection of claims 11-20 under 35 USC 101, Applicant has amended claim 11 to include storing and executing the electronic publication, contending that the amendment to claim 11 overcomes this rejection. The Examiner, however, disagrees. The electronic publication, in accordance with the specification, is simply a mere arrangement of data such as categorized buyer requirements and information fields such as name, description, etc. The electronic publication has no functional interrelation to the computer system itself: In other words, the electronic publication is a mere presentation of data that has been stored. Simply reciting in the claim language that the publication is "stored and executed" does not make it statutory subject matter. Thereby, the rejection of claims 11-20 under 35 USC 101 is maintained.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 11-20 are rejected under 35 U.S.C. 101.**

Claims directed to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature which constitute “descriptive material.” Abstract ideas, *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, *Schrader*, 22 F.3d at 292-93, 30 USPQ2d at 1457-58, are not patentable. Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” In this context, “functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) “Nonfunctional descriptive material” includes but is not limited to music, literary works and a compilation or mere arrangement of data.

Additionally, both types of “descriptive material” are nonstatutory when claimed as descriptive material per se. *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and

Art Unit: 3625

functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. See MPEP 2106, *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

The Examiner notes that in independent claim 11, the preamble recites “An electronic publication for publishing a buyer’s requirements”. This claim is thereby directed to “an electronic publication”, which is simply a compilation or mere arrangement of data. The “electronic publication” in itself has no structural interrelation nor does it impart functionality to the invention, and is therefor considered to be data per se and is nonfunctional descriptive material.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-5, 8-9, 11-15, 18, and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over PTO 892 reference U in view of Yamaoka et al. (US 20010029473).**

Regarding claim 1, PTO 892 U teaches:

categorizing the buyer's requirements into categories that are easily recognizable to the vendors, wherein each category includes one or more items required by the buyer, and further wherein an item is a product or service required by the buyer (see at least: Page 1); The

Examiner notes that a buyer's request is categorized into multiple main categories (see A, B, and C) with associated subcategories (see a, b, c, d, e, f, g, h, I, j, k, and l);

electronically publishing the buyer's requirements, wherein each item within the categories includes a name, a description, a contact person and one or more relevant dates, wherein a name of the contact person is presented as a hyperlink to an e-mail account of the contact person (see at least: Pages 2-11); The Examiner notes that the electronic publication includes a user name of the contact person (which is the hyperlinked email address of the user; see AA pages 7 and 8) , a relevant date (see BB pages 7 and 8), and a description (see CC pages 7 and 8);

posting all forms and information necessary for the vendors to conduct business with the buyer, including requests for information, quotes and proposals, in a format that allows editing of the forms by the vendors and submission of an edited form to the buyer electronically (see at least: Pages 7-9); The Examiner notes that all the information that that is necessary is posted in the listing. Those listings include requests for information, quotes, proposals, etc. (see Pages 1, 7, and 8; Pages 7 and 8 show a request for a proposal). The hyperlinked user name is posted at the top of the page and provides the respondent/vendor to the only form necessary to conduct business with the buyer (see Page 9). The email form allows for data entry into fields E and F (i.e. the email form *allows editing of the forms by the vendors and submission of an edited form to the buyer electronically*).

creating a registration section that allows the vendors to register with the buyer, wherein after registration the vendors can receive electronic notifications concerning any item specified by the vendors during registration (see at least: Pages 7-9); The Examiner notes that by submitting a response to the buyer, the respondent/vendor *registers* with the buyer. Subsequently, vendors can receive electronic notifications concerning any item specified by the vendors during registration via reply emails.

wherein the buyer's requirements, the forms and information necessary to conduct business with the buyer, and the registration section are included in the electronic publication (see at least: Pages 7-9).

Though PTO 892 U teaches such features and further teaches where businesses can use to advertise on the site (see at least: Page 1 (C-1)), it is not explicitly taught where the buyers posting requirements are organizations.

In the same field of endeavor, Yamaoka teaches a bulletin boards system where an employee of a company acts as a buyer to purchase certain parts and materials (see at least: 0008, 0015-0017, 0189, 0191, 0191). Thereby, Yamaoka teaches where a *buyer* is also *an organization*. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of PTO 892 U to have included where a *buyer* is also *an organization* as taught by Yamaoka in order to provide an information system that facilitates the quick and efficient procurement of parts worldwide for a buying company (see at least: abstract, 0190).

Regarding claim 2, PTO 892 U in view of Yamaoka teaches *updating the description of an item and the forms necessary for the vendors, by the buyer at any time* (see at least: Pages 14-G and 15-H).

Regarding claim 3, PTO 892 U in view of Yamaoka teaches *posting to the publication drawings, figures, and pictures for viewing an possible downloading by the vendors, wherein the drawings, figures and pictures aid in conveying the buyer's requirements to the vendors* (see at least: Page 16-K).

Regarding claims 4 and 14, PTO 892 U in view of Yamaoka teaches all of the above and further teaches wherein one of the categories is *services* (see at least: Page 1-C). PTO 892 U in view of Yamaoka, however, does not teach the categories *construction and supplies*. Though PTO 892 U in view of Yamaoka does not expressly show the categories *construction and*

Art Unit: 3625

supplies, these differences are only found in the nonfunctional data regarding the naming of the various categories. The specific type of category is not functionally related to the substrate of the article of manufacture, thereby, this is descriptive material and does not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention include any category in the article of manufacture as shown by PTO 892 U in view of Yamaoka because such data does not functionally relate to the substrate of the article of manufacture and merely labeling the categories differently from that in the prior art would have been obvious. See *In re Gulack* cited above.

Regarding claim 5, PTO 892 U in view of Yamaoka teaches *wherein the electronic notification received by vendors that registered with the buyer comprises an e-mail message, an instant message, a text message, or a facsimile* (see at least: Pages 7-9). The Examiner notes that communication is facilitated by email.

Regarding claims 8 and 9, PTO 892 U in view of Yamaoka teaches:

(8) *wherein the buyer is able to add and delete information and pages to the electronic publication at any time* (see at least: Pages 14-I, 15-J to 16-J, 16-L to 17-L, and 21-M). The Examiner notes that a buyer can add or delete any information in a posting. Additionally, the buyer may add/delete pages to the electronic publication using HTML or URLs.

(9) *wherein a single category or an individual item comprise multiple pages within the publication and the buyer is able to specify the order in which the pages are presented for*

Art Unit: 3625

viewing (see at least: Pages 14-I, 15-J to 16-J, 16-L to 17-L, and 21-M). The Examiner notes that by incorporating URLs the publication comprises multiple pages. Additionally, it is determined by the user the order in which those URLs are displayed in the posting to the viewer (i.e. the user *is able to* specify the order).

Regarding claims 11-13, 15, 18, and 19, the limitations set forth in claims 11-13, 15, 18, and 19 closely parallel the limitations of claims 1-3, 5, 8, and 9. Claims 11-13, 15, 18, and 19 are thereby rejected under the same rationale.

3. **Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over PTO 892 U in view of Yamaoka as applied above, and in further view of PTO 892 reference v (herein referred to as 892v).**

Regarding claims 6 and 16, PTO 892 U in view of Yamaoka teaches all of the above as noted and further teaches registering with the buyer by sending the buyer an email that includes a reply email address (see at least: Pages 7-9). PTO 892 U in view of Yamaoka, however, does not expressly teach the vendor providing *preferred contact method wherein the preferred contact method is used to send a confirmation message to the vendors confirming successful registration*. 892v teaches a vendor *preferred contact method wherein the preferred contact method is used to send a confirmation message to the vendors confirming successful registration* (see at least: Paragraphs 11 and 27). The Examiner notes that 892v teaches buyers/requestors as well as vendors registering with the online service (see at least: Paragraphs 12-24). Additionally, all users of the service (which thereby includes buyers and vendors) must register with the service (see at least: Paragraph 27). In registering the user provides an email address (i.e. preferred contact) to which a confirmation email is sent. This confirmation email verifies the successful registration and allows the user to activate the newly registered account. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of PTO 892 U in view of Yamaoka to have included *preferred contact method wherein the preferred contact method is used to send a confirmation message to the vendors confirming successful registration* as taught by 892v in order to provide a convenient way of buyers and sellers to have a meeting of the minds (see at least: 892v, Paragraph 30).

4. **Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over PTO 892 U in view of Yamaoka, as applied above, and further in view of Centner et al . (US 2002/0007324, herein referred to as Centner).**

Regarding claims 7 and 17, PTO 892 U in view of Yamaoka teaches all of the above as noted but does not expressly teach *creating an administration section that allows the buyer to organize information relating to the vendors, including the creation of mailing lists that are used to send electronic notifications to the vendors, wherein access to the administration is restricted to the buyer*. Centner teaches *creating an administration section that allows the buyer to organize information relating to the vendors, including the creation of mailing lists that are used to send electronic notifications to the vendors, wherein access to the administration is restricted to the buyer* (see at least: abstract, 0042). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of PTO 892 U in view of Yamaoka to have included *creating an administration section that allows the buyer to organize information relating to the vendors, including the creation of mailing lists that are used to send electronic notifications to the vendors, wherein access to the administration is restricted to the buyer* as taught by Centner in order to provide efficient distribution of a buyer's request-for-quotations to an audience of that buyer's preferred suppliers (see at least: Centner, abstract).

Art Unit: 3625

5. **Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over PTO 892 U in view of Yamaoka as applied above, and further in view of Herr-Hoyman et al. (US 5,727,156, herein referred to as Herr).**

Regarding claims 10 and 20, PTO 892 U in view of Yamaoka teaches all of the above and further teaches providing a home page (i.e. the initial posting page) and multiple other pages within the publication (i.e. linked pages) (see at least: Pages 14-I, 15-J to 16-J, 16-L to 17-L, and 21-M). PTO 892 U in view of Yamaoka, however, does not expressly teach where *all of the other pages include a link that will return the vendors to the home page*. Herr teaches where *all of the other pages include a link that will return the vendors to the home page* (see at least: col. 2 lines 22-42). It would have been obvious to one of ordinary skill in the art at the time of invention to have included where *all of the other pages include a link that will return the vendors to the home page* as taught by Herr in order to provide an easy means of returning to the main page of the listing without having to manually navigate back through the multiple other pages.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
March 27, 2007


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